



April 25, 2019

Mark Langer
Clerk, United States Court of Appeals
for the District of Columbia Circuit
E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, NW
Washington, DC 20001


Re: *Midwest Terminals of Toledo International, Inc.*,
D.C. Cir. Nos. 18-1017 & 18-1049

Dear Mr. Langer:

Under FRAP Rule 28(j), Midwest Terminals of Toledo International, Inc. (“Midwest”) responds to Petitioner Midwest’s citation of a supplemental “authority,” which consists of this Court’s recent judgment in *Hendrickson Trucking Co. v. NLRB*, D.C. Cir. Nos. 17-1226 & 17-1234 (April 12, 2019). In *Hendrickson*, the Court upheld an administrative law judge’s ratification of an unfair labor practice decision. The facts in *Hendrickson* are inapposite to those in this case.

Unlike in *Hendrickson*, the Complaints in this case were not authorized from the outset. Then, approximately 2 ½ years after the Board’s March 2015 Decision and Order and nearly 4 ½ years after the Complaints issued, General Counsel Richard F. Griffin Jr. “ratified” the issuance of the Complaints pursuant to FVRA § 3348(e)(1). The Complaints herein were never authorized, meaning the administrative hearing was never authorized, the ALJ’s determination was never authorized and, consequently, there was never a question properly presented the Board. This case and any findings therein never happened. Accordingly, the facts herein are distinctly different from those presented in *Hendrickson*, i.e., the Complaint issued against Hendricks was authorized when it issued.

Very truly yours,



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